



JUL 19 2007

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

I-2-0438.1US

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Typed or printed C. Frederick Koenig, III
name _____

Application Number

10/713,601

Filed

November 14, 2003

First Named Inventor

Kazakevich et al.

Art Unit

2618

Examiner

Tilahun Gesesse

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record. 29,662
Registration number _____

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

Signature

C. Frederick Koenig, III

Typed or printed name

215-568-6400

Telephone number

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.



*Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the **PATENT APPLICATION** of:

Kazakevich et al.

Application No.: 10/713,601

Confirmation No.: 2510

Filed: November 14, 2003

For: WIRELESS TRANSMIT/RECEIVE
UNITS HAVING MULTIPLE
RECEIVERS AND METHODS

Group: 2618

Examiner: Tilahun Gesesse

Our File: I-2-0438.1US

Date: July 17, 2007

**ARGUMENTS ACCOMPANYING PRE-APPEAL BRIEF
REQUEST FOR REVIEW**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Pre-Appeal Brief Review is hereby requested in the above-identified patent application for the following reasons:

The present invention is directed to a wireless transmit/receive unit with multiple receivers, where a control unit selectively controls the powering of secondary receivers to limit power consumption. In particular, claims 9 and 19 are directed to a primary receiver that is independent from the secondary receivers and to which power is not controlled by the control unit. For example, claim 9 specifies:

...the WTRU has a primary receiver that is powered in a manner not controlled by the control unit and a secondary receiver that is powered in a manner controlled by the control unit.

Claim 19 specifies:

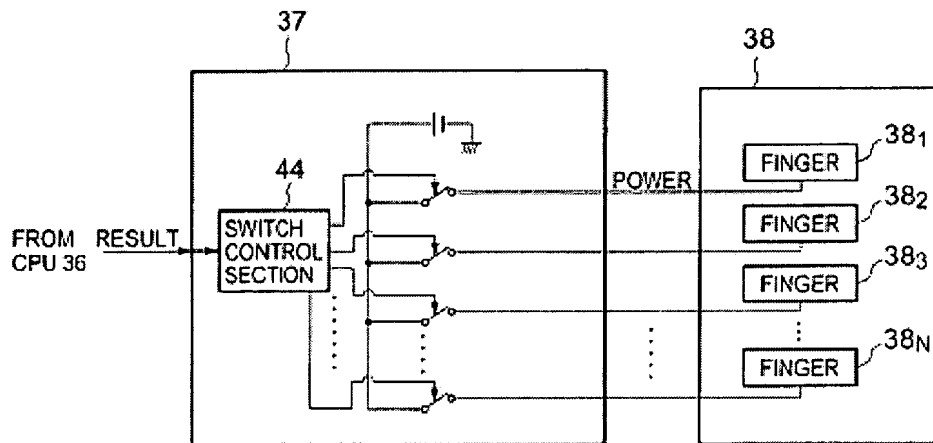
...the WTRU has a primary receiver and a secondary receiver, further comprising maintaining the powering of the primary receiver irrespective of predetermined thresholds and selectively controlling the powering of the secondary receiver based on the predetermined thresholds such that the secondary receiver is not powered under predetermined conditions when it is desirable to limit energy consumption.

It is noted that claims 9 and 19 depend from respective claims 1 and 12. Applicant attempted to limit the scope of independent claims 1 and 12 by respectively incorporating the limitations of claims 9 and 19. That amendment after final was refused entry in an Advisory Action dated July 2, 2007.

Claims 9 and 19 stand finally rejected as being unpatentable over US Patent No. 6,628,698 (Oda) in view of US Patent No. 7,031,753 (Schwengler et al.). Figure 13 of Oda is cited for teaching the claimed primary receiver that is not controlled by the control unit. However, all of the "receivers" in Oda are controlled by the Oda control unit; there is no teaching or suggestion of a "primary receiver" that is not controlled by the "control unit" as defined by claims 9 and 19.

Oda teaches a RAKE receiver with multiple fingers, where a RAKE finger is used to receive one of several delayed multi-path signals (see Oda Column 1, lines 38-47). The RAKE fingers are equated to the "receivers" defined by the pending claims. Each RAKE finger in Oda can be powered on or off depending upon the

delay of the strongest multi-path signals. Oda illustrates the powering of fingers in the RAKE receiver in the cited Figure 13, reproduced below.



Oda's description of Figure 13 in Column 11, lines 6-15 explains:

The finger section power control circuit 37 has a switch control section 44. The switch control section 44 receives the computation result from the CPU 36 and controls switches for turning on/off power supplied to the fingers 38₁ to 38_N in the finger section 38 on the basis of the received result. That is, the finger section power control circuit 37 controls the switches to supply power to only the fingers, of the fingers 38₁ to 38_N, which correspond to the delay times notified by the CPU 36.

The switch control section 44 of Oda, which is asserted to correspond to the "control unit" defined by claims 9 and 19, controls the power provided to each of the individual fingers 38₁-38_N by opening and closing respective switches inside the finger section power control circuit 37. In Oda, all of the "receivers" 38₁-38_N are equally controlled by the switch control section, no one of the "receivers" 38₁-38_N can be identified as a "primary receiver" as claimed. Oda simply does not teach or suggest a "primary receiver" that remains powered irrespective of the thresholds which are used to power the other receivers.

As explained in application, paragraph [0035], the claimed "control unit" is used to control the powering of secondary receivers so that when the quality of the received signal is good, some or all of the secondary receivers are turned off to save power. The "primary receiver" of claims 9 and 19 is not controlled by the "control unit" and is accordingly always powered on to receive communication signals even when all the secondary receivers are powered off. As stated in paragraph [0036]:

[0036] The WTRU can be configured so that **one receiver is designated as a primary receiver that is always on** when the WTRU is on and **the control component 30 only controls the powering of one or more additional receivers** incorporated in the WTRU.

This function is not performed nor suggested by Oda's RAKE fingers which all are required to be controlled by the switch control 44 in order to match various combinations of mutli-path signal delays. Secondary reference, Schwengler et al., has no teaching or suggestion which remedies the deficiencies in Oda in this regard. Accordingly, the rejection of claims 9 and 19 as being unpatentable over Oda in view of Schwengler et al. should be withdrawn.

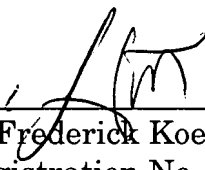
Applicant: Kazakevich et al.
Application No.: 10/713,601

In connection with the withdrawal of the rejection of claims 9 and 19, applicant respectfully requests entry of the previously filed amendment after final that amends independent claim 1 to include the limitation of claim 9 and independent claim 12 to include the limitations of claim 19, thus putting the claims in condition for allowance and mooted the present appeal.

Respectfully submitted,

Kazakevich et al.

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